

REMARKS

Claims 1, 3, 10, 11, 13 and 14 are pending. Claims 2, 4 and 12 are currently canceled. Claims 5-9 and 15-20 have been withdrawn from consideration. Claims 1 and 3 are currently amended. Claim 1 has been amended to incorporate the limitations of cancelled claims 2 and 4. Claim 3 has been amended to change its dependency. Reconsideration of the application is requested.

§ 103 Rejections

Claims 1-4, 10-11 and 13-14 are rejected under 35 USC § 103(a) as being unpatentable over Pilgard et al. (U.S. 2005/0019383) in view of Shaw et al. (US 6,231,939). This rejection should be withdrawn in view of the amendment made to claim 1 and the arguments which follow.

The barrier in Pilgard et al. is internal to the carrier layer and serves to separate the reservoir and adhesive. Hence there is no motivation in Pilgard et al. for that barrier to be translucent as required by Claim 1. In fact, the only metal barrier specifically disclosed in Pilgard et al. are “metal foils, such as aluminum” which would be expected to be opaque. Translucency in the inorganic barrier layer in Applicants’ invention is important for cosmetic purposes, not a consideration relevant to the function of the barrier in Pilgard et al..

Shaw does not relate to transdermal devices at all. Moreover, in contrast to the purpose of the barrier in Pilgard et al., the barrier film of Shaw serves as a barrier to oxygen (or gas), an unrelated function. Hence, Shaw can not be said to remedy the deficiencies noted above in Pilgard et al. In fact, given the lack of any motivation in Pilgard et al. for the barrier to be translucent and the differing role ascribed to the barriers between Pilgard et al. and Shaw, it is not agreed that one of ordinary skill in the art would combine the disclosures of Pilgard et al. and Shaw as the Examiner has done.

Claims 3, 10, 11, 13 and 14 each add additional features to claim 1. Claim 1 is patentable for the reasons given above. Thus, claims 3, 10, 11, 13 and 14 are likewise patentable.

In summary, the rejection of pending claims 3, 10, 11, 13 and 14 under 35 USC § 103(a) as being unpatentable over Pilgard et al. in view of Shaw has been overcome and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance.

Examination and reconsideration of the application as amended is respectfully requested.

Respectfully submitted,

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